

## **REMARKS/ARGUMENTS**

Applicant responds herein to the Office Action dated June 9, 2008.

Claims 1-17 are pending in the instant application. Claim 8 has been withdrawn from consideration pursuant to Examiner's Restriction Requirement, and Applicant's election.

### **Amendments to the Claims**

As amended above, independent claim 1 recites "correct aberration of said light generated within that path and caused by manufacturing and adjustment errors of the optical components which vary from one such optical head device to another" (Underline per 37 C.F.R. § 1.121). Similarly, claim 12 is amended to recite "measuring aberration generated in a light path within the optical system from said light source to said objective lens and caused by manufacturing and adjustment errors of the optical components which vary from one such optical head device to another" (Underline per 37 C.F.R. § 1.121). These amendments are fully supported throughout the original specification as filed, for example at para. [0003] (with reference to the Patent Application Publication No. 2006/0007835), among other places. No new matter has been added.

### **Rejection under 35 U.S.C. § 102**

Claims 1, 2 and 12 are rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent Application Publication No. 2002/0135891 by Kimura ("Kimura"). Applicant respectfully traverses the rejection, for at least the following reasons.

As amended above, claim 1 recites

An optical head device comprising:

...

one or more aberration correction optical elements which are fixed within a path of said light between said light source and said objective lens, and correct aberration of said light generated within that path and caused by manufacturing and adjustment errors of the optical components which vary from one such optical head device to another,

wherein said one or more aberration correction optical elements are selected from amongst a plurality of different aberration correction optical elements, in accordance with said aberration which varies from one such optical head device to another.

(underline per 37 C.F.R. § 1.121)

Similarly, independent claim 12 recites

A method of manufacturing an optical head device comprising the steps of:

...

measuring aberration generated in a light path within the optical system from said light source to said objective lens and caused by manufacturing and adjustment errors of the optical components which vary from one such optical head device to another; and

selecting, from amongst a plurality of different aberration correction optical elements, based on the results of the measured aberration, one or more aberration correction optical elements for correcting the aberration of said light which varies from one such optical head device to another, and then fixing the optical element or elements within said light path of said optical system.

(underline per 37 C.F.R. § 1.121)

The features of independent claims 1 and 12 are neither taught nor suggested by Kimura.

The Office Action alleges that claims 1 and 12 of the present application are anticipated by Kimura based on the following reasons:

- (1) Kimura (at ref. (2), Fig. 47; and paragraph [0094]) discloses an optical head device comprising aberration correction optical elements;
- (2) Kimura (Figs. 49a - 49c; and paragraph [0220]) discloses that aberration correction optical elements of the optical head device correct the aberration caused by manufacturing and adjustment errors of optical components; and
- (3) Kimura (paragraphs [0099] and [0183]) discloses that aberration correction optical elements of the optical head device are selected from amongst a plurality of different aberration correction optical elements.

Applicant addresses these propositions each in turn.

Applicant respectfully disagrees with the Office action assertion that Kimura discloses optical head device comprising aberration correction optical elements. Kimura paragraph [0094] describes that the chromatic aberration of the lens (ref. (2), Fig. 47) is corrected. However, the chromatic aberration referred to therein is uniquely determined by the design thereof. In contrast to the features recited in the above claims 1 and 12, the spherical aberration of the lens (2) is not caused by manufacturing and adjustment errors of optical components, and does not vary from device to device. Therefore, the lens denoted by ref. (2), Fig. 47 of Kimura differs from the aberration correction optical elements recited in claims 1 and 12 of the present application.

Moreover, with reference to Kimura para. [0697], *et seq.*, Kimura discloses that coupling lens (2) corrects spherical aberration by displacing lens 2 with a one axis displacement actuator (11). It does not, as recited in the present independent claims, correct aberration with “one or more aberration correction optical elements which are fixed within a path of said light”. Accordingly, the invention of Kimura is more complex than otherwise necessary to achieve the correction according to the present claims.

Applicant respectfully disagrees with the Office Action assertion that Kimura discloses that aberration correction optical elements of the optical head device correct the aberration caused by manufacturing and adjustment errors of optical components. Kimura Figs. 49a - 49c describes that the aberration of objective lenses changes depending on the design thereof. Also, Kimura paragraph [0220] describes that the aberration caused by manufacturing and adjustment errors of two objective lenses changes depending on the design thereof and that by properly designing two objective lenses, aberration caused by the shifting of optical axes thereof can be satisfactorily corrected. However, Kimura does not describe aberration correction optical elements correcting the aberration caused by manufacturing and adjustment errors of optical components other than objective lenses, as recited in claims 1 and 12 of the present application.

Applicant respectfully disagrees with the Office Action assertion that Kimura paragraphs [0099] and [0183] discloses that aberration correction optical elements of the optical head device are selected from amongst a plurality of different aberration correction optical elements. Kimura describes that by properly selecting material for two lenses, the chromatic aberration of the two lenses can be corrected. However, the chromatic aberration referred to therein is not caused by manufacturing and adjustment errors of optical components. Also, the material for two lenses is uniquely determined by the design thereof, and it does not vary from device to device, as recited in the present independent claims. The two lenses of Kimura (paragraphs 99 and 183) are therefore, materially different from the aberration correction optical elements selected from amongst a plurality of different aberration correction optical elements, in accordance with the aberration caused by manufacturing and adjustment errors of optical components which varies from device to device, as recited in claims 1 and 12 of the present application.

It is well-settled that “Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.”

*Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Company et al.*, 730 F.2d

1452, 221 USPQ 481 (Fed. Cir., 1984). Because Kimura does not teach or suggest all features of independent claims 1 or 12 as illustrated above, Applicant respectfully submits that the rejection has been obviated, and kindly requests favorable reconsideration and withdrawal.

Claim 3 depends from claim 1, and incorporates all features of claim 1 by reference. Claim 3 is separately patentable, but is offered as patentable for at least the same reasons as its underlying independent base claim. Therefore, favorable reconsideration and withdrawal of this rejection is also kindly requested.

### **Rejection under 35 U.S.C. § 103**

Claims 2, 4-5, 9-10 and 13 are rejected under 35 U.S.C. §103(a) as obvious over Kimura in view of alleged Applicant Admitted Prior Art (“AAPA”). Claims 6 and 11 are rejected under 35 U.S.C. §103(a) as obvious over Kimura in view of Minoura (4,139,267). Claim 7 is rejected under 35 U.S.C. §103(a) as obvious over Kimura, in view of Abe (6,084,843). Claim 14 is rejected under 35 U.S.C. §103(a) as obvious over Kimura in view of Sano, *et al.* (6,967,916). Claims 15-17 are rejected under 35 U.S.C. §103(a) as obvious over Kimura, in view of Ogawa, *et al.* (5,126,994). Applicant respectfully traverses the rejections.

Each of claims 2-7, 9-11 and 15-17 depend, directly or indirectly from independent claim 1. Each of claims 13-14 depend from independent claim 12. These dependent claims incorporate by reference the features of their respective underlying independent base claims.

The grounds of obviousness rejection are premised upon the application of Kimura to underlying independent base claims 1 and 12, which has been obviated above. None of the foregoing references offer, nor are any alleged to, any teaching or suggestion to ameliorate the deficiencies of Kimura with respect to claims 1 and 12. Therefore, even presuming without conceding that the references teach what is attributed to them or Applicant’s specification makes the alleged admission(s), and further presuming that there is some apparent reason for one of ordinary skill in the art to the combine the references as proposed in the Office Action, even taken in combination the references do not teach all elements recited in the claims. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

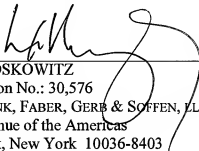
Therefore, Applicant respectfully submits that dependent claims 2-7, 9-11 and 13-17 are patentably distinguished over the applied references, taken singly or in any combination. Favorable reconsideration and withdrawal of the rejections is kindly requested.

**Conclusion**

In light of the foregoing, Applicant respectfully submits that all claims recite patentable subject matter. Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

THIS CORRESPONDENCE IS BEING  
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Respectfully submitted,



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